

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos.688 and

1600 of 1992

WITH

SPECIAL CIVIL APPLICATION NO.13954 of 1993

WITH

SPECIAL CIVIL APPLICATION No.6028, 865 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PUNAJI D. SUTHAR

Versus

STATE OF GUJARAT

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Appearance:

MR JAYANT P BHATT for Petitioners

GOVERNMENT PLEADER for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 12/12/96

ORAL (COMMON) JUDGEMENT

1. This group of petitions is filed by PSIs (Armed) and PSIs (Wireless) serving in Gujarat State Reserved Police Force (SRPF) in various groups seeking relief

since they are required to perform their duties round the clock even on 2nd and 4th Saturdays and Sundays and other public holidays and while other employees of the State of Gujarat enjoy the holidays, they are not being paid benefit of additional pay for each such day and that they should be treated equally under Articles 14 & 16 of the Constitution of India with other employees. The action of the State Government in not granting such benefits to the PSIs (Armed) and PSIs (Wireless) of SRPF is challenged as arbitrary, capricious and discriminatory inasmuch as Cl.III employees, such as, Constables, Head-Constables, peons etc of SRPF groups are extended the benefits and they are being paid additional pay for work on 2nd, 4th Saturdays, Sundays and other public holidays. They have also claimed that the benefit of encashment in lieu of work done on 2nd, 4th Saturdays, Sundays and other public holidays is extended upto the rank of Constables, Head-Constables by the Resolution of the Home Department of State of Gujarat bearing G.R.No.EST/2785/5536/C, dated 6.1.1986 while the said benefit is denied to the Police Sub-Inspectors (Armed) and PSIs (Wireless) of SRPF even though they are subjected to same requirement of work on public holidays, Sundays and 2nd and 4th Saturdays while other employees of the State Government enjoy the same. This, according to them, would amount to denial of equal opportunity in the matter of employment under Article 16 of the Constitution of India, and therefore, they have submitted before the court that the State Government should be directed to extend the benefit of additional pay to PSIs (Armed) and PSIs (Wireless) of SRPF for duties performed by them on Sundays, 2nd, 4th Saturdays and public holidays as is being done by the State Government in case of Cl.III employees of SRPF.

2. The State Government is served with notice and the Director General of police is also served with notice, but they have not filed affidavit-in-reply and have not resisted the petition on any count, whatsoever.

3. The fact that the Government has passed Resolution vide GR No.JLP/5087/4327/J, dated 5.10.89 extending the benefit of additional pay for the duties performed on holidays, 2nd, 4th Saturdays and public holidays is not in dispute and no earthly reason is shown to this court as to why such benefit of additional pay for duties performed on those is being denied to PSIs(Armed) and PSIs(Wireless) working in SRPF.

4. By subsequent resolution, dated 6th January, 1986 the Government of Gujarat, Home Department resolved that

the PSIs, Head Constables who do not desire to encash Sundays,, 2nd and 4th Saturdays, Public Holidays should be given C/off in lieu of their performance on Sundays, 2nd and 4th Saturdays, Public Holidays.

5. The matter is no longer resintegra and the rights of employees of SRPF who were required to perform duties on 2nd, 4th Saturdays, Sundays and Public Holidays are decided by this court in SCA No.1448/88 by judgment and order, dated 17.1.1991. Benefit of additional pay for each day, i.e. 2nd and 4th Saturdays, Sundays and Public Holidays is ordered to be granted to Constables and Head-Constables of SRPF by this court and the said judgment and order is fully implemented by the State of Gujarat and the benefits are extended to all Cl.III &IV employees of SRPF including Constables, Head-Constables of SRPF.

6. Equality of treatment before laws being the cherished right of citizens of this country, the same shall have to be enforced in the case of PSIs (Armed) and PSIs (Wireless) serving in SRPF as they are also required to perform duties on the aforesaid days, i.e. 2nd, 4th Saturdays, Sundays and Public Holidays and while on duty they are required to work along with their staff in the tents at various places in the State. When the State Government has extended the benefit of additional pay for the additional duties performed by the Cl.IV employees of SRPF on holidays, Sundays, 2nd and 4th Saturdays, there is no earthly reason as to why same benefits be denied to PSIs(armed) and PSIs(Wireless) of SRPF who are also performing same duties by remaining on arduous duty on 2nd, 4th Saturdays, Sundays and Public Holidays and by remaining all throughout in tents. There is no earthly reason as to why such benefit should be denied to PSIs(wireless) and PSIs (armed) of SRPF when same benefit is made available to all its Cl.III and Cl.IV employees. It is required to be noted that ordinarily employees can not be compelled to work on public holidays, Sundays and 2nd and 4th Saturdays and if their services are required additional pay for the duties performed by them on such holidays, which the other employees of the State are enjoying must be provided by the employer. There does not appear to be any justification for denying the benefits of the aforesaid GR to the PSIs(armed) and PSIs (wireless). It goes without saying that they should be entitled to get additional pay as when they are called upon to perform duties on holidays, Sundays, 2nd and 4th Saturdays. Additional pay is to be given for the duties performed by them on the specified days which is referred to hereinabove.

7. In the result, this groups of petitions succeed and the respondents are directed to pay to PSIs (Armed) and PSIs(wireless) of SRPF additional pay for the duties actually performed by them on 2nd, 4th Saturdays, Sundays and on Public Holidays. Respondents are directed to comply with the writ of this court within a period of three months from the date of receipt of the same and the office is directed to send down writ of this court along with the copy of judgment forthwith to the respondents. In the results, this group of petitions are allowed. Rule is made absolute to the aforesaid extent with no order as to costs. Benefits of aforesaid directions of this court are directed to be made available to PSIs(armed), PSIs(wireless) of SRPF with effect from 1.1.1993. Even in earlier group of petitions were conferred from January, 1986, but with a view to seeing that no undue financial burden is put on the State exchequer these specific directions are issued to pay additional pay to the PSIs(armed) and PSIs(wireless) for their performance of duties on 2nd Saturday, 4th Saturday, Sundays and Public Holidays only with effect from 1.1.1993.

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